

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

SHARON D. LEWIS,

Plaintiff,

v.

MICHIGAN OCCUPATIONAL SAFETY  
AND HEALTH ADMINISTRATION,

Defendant.

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Case No. 13-10889

Hon. Gerald E. Rosen

Magistrate Judge Laurie J. Michelson

**ORDER ADOPTING  
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

At a session of said Court, held in  
the U.S. Courthouse, Detroit, Michigan  
on May 14, 2013

PRESENT: Honorable Gerald E. Rosen  
Chief Judge, United States District Court

On May 3, 2013, Magistrate Judge Laurie J. Michelson issued a Report and Recommendation ("R & R") recommending that the Court dismiss the complaint filed by Plaintiff Sharon D. Lewis under 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim on which relief may be granted.<sup>1</sup> Plaintiff filed objections to the R & R on May 8, 2013. As briefly discussed below, the Court finds no merit in Plaintiff's objections, and therefore adopts the R & R in its entirety as the opinion of this Court.

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<sup>1</sup>The Magistrate Judge has further recommended that the Court deny two motions for default judgments filed by Plaintiff, on the grounds that they are moot and that Plaintiff filed these motions before the deadline by which the Defendant Michigan Occupational Safety and Health Administration ("MIOSHA") was obligated to respond to Plaintiff's complaint.

Although Plaintiff's submission is captioned as an objection to the R & R, she does not challenge in any respect the grounds identified by the Magistrate Judge as warranting the dismissal of her initial complaint. Instead, she suggests that she has viable claims against Defendant MIOSHA that she seeks to pursue in an amended complaint. Indeed, on the same day she filed her objections to the R & R, Plaintiff filed a motion for leave to file a first amended complaint, and this matter has been referred to the Magistrate Judge for a hearing and determination. It follows that Plaintiff's initial complaint is subject to dismissal, and that this case may go forward, if at all, only upon the Magistrate Judge's determination that Plaintiff has identified viable claims that she should be permitted to pursue in an amended complaint.<sup>2</sup> Accordingly,

NOW, THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's May 3, 2013 Report and Recommendation (docket #14) is ADOPTED as the opinion of this Court. IT IS FURTHER ORDERED that, for the reasons stated in the R & R, Plaintiff's initial March 5, 2013 complaint is DISMISSED under 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim on which relief may be granted. IT IS

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<sup>2</sup>The Court expresses no view on this issue, but leaves this matter for the Magistrate Judge to decide in the first instance.

FURTHER ORDERED that, for the reasons stated in the R & R, Plaintiff's motions for default judgment (docket #11 and docket #12) are DISMISSED AS MOOT.

s/Gerald E. Rosen  
Chief Judge, United States District Court

Dated: May 14, 2013

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on May 14, 2013, by electronic and/or ordinary mail.

s/Julie Owens  
Case Manager, (313) 234-5135